



## GENERAL STATUTES COMMISSION

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### MEMORANDUM

June 5, 2012

**TO:** Senate Judiciary I Committee  
**FROM:** General Statutes Commission  
**RE:** HB 1067 (Co-owners/Unequal Shares/Simultaneous Death)

#### General Comments

This bill amends G.S. 28A-24-3 to conform to the 2009 amendments to G.S. 41-2 with respect to the holding of unequal shares in a joint tenancy with right of survivorship.

G.S. 28A-24-3 is part of the Revised Uniform Simultaneous Death Act. G.S. 28A-24-3 requires a co-owner of property with right of survivorship, e.g., joint tenants in a joint tenancy with right of survivorship, to survive the other co-owner or co-owners by at least 120 hours in order to inherit from the other co-owners. Otherwise, if there are two co-owners and neither survives the other by that amount of time, one-half of the property passes as if one had survived by 120 hours and one-half as if the other had survived by 120 hours. If there are more than two co-owners, the property passes in the proportion that one co-owner bears to the whole number of co-owners. This provision assumes that the co-owners have equal shares in the property.

G.S. 41-2, the basic statute dealing with the features of a joint tenancy, was amended in 2009 to clarify that interests in a joint tenancy with right of survivorship may be held in unequal shares. No conforming change was made at that time to G.S. 28A-24-3 to account for co-owners whose shares are not equal.

#### Specific Comments

Section 1 rewrites G.S. 28A-24-3 to conform to G.S. 41-2, which was amended by Session Law 2009-268 to clarify that interests in a joint tenancy with a right of survivorship may be held in unequal shares.

Section 2 amends G.S. 41-2(b) to provide that joint tenancy interests among two or more joint tenants holding property in joint tenancy with right of survivorship are subject to G.S. 28A-24-3 upon the death of one or more of the joint tenants. This provision replaces the current provision governing the division of joint tenancy interests upon the death of one joint tenant.

Section 3 provides for the amendments to become effective October 1, 2012.